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SENATE

REPORT
99-113

AIR TRAVELER PROTECTION ACT OF 1985

JULY 25, (legislative day, JULY 16), 1985.—Ordered to be printed

Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany H.R. 2796]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 2796) to improve security standards for international air transportation, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill do pass.

PURPOSE OF BILL

H.R. 2796, as reported, contains the text of S. 1436. The purpose of the legislation is to provide statutory security against acts of criminal violence directed against air transportation and air travelers, and to prevent the recurrence of situations similar to that presented by the recent hijacking of Trans World Airlines (TWA) Flight 847 and other terrorist acts directed against international civil aviation.

BACKGROUND AND NEEDS

On June 14, 1985, TWA Flight 847 was hijacked to Beirut, Lebanon, shortly after takeoff from Athens, Greece. Not long thereafter an Air India Boeing 747, with a full load of passengers, crashed in the North Atlantic, killing all aboard. Sabotage is suspected.

In the wake of these tragedies, concerned leaders and officials responded. The President condemned the events and directed the Cabinet to take appropriate action. The Federal Aviation Administration (FAA) began a review of international airport security. The Secretary of Transportation announced a number of new procedures and regulations aimed at preventing further terrorist acts. Airports and airlines tightened their own security procedures.

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Travelers changed or abandoned plans to visit Greece and the Middle East.

Congress also reacted to the crisis. In one 5-day period at least 10 measures were proposed in the House and Senate to improve airport security and prevent further acts of terrorism against Americans. One, H.R. 2796, was passed unanimously in the House of Representatives. Another, in the form of an amendment, was added to the Senate's 1985 supplemental appropriations bill.

On June 27, 1985, the Subcommittee on Aviation of the Senate Commerce Committee held a hearing on airport security, international terrorism, and the various bills then pending in the Committee. Several points emerged from that hearing. First, as recent events in Athens and Beirut demonstrate, there are international airports where security is inadequate. Second, foreign governments and aeronautic authorities require encouragement, assistance, and sometimes incentives to remedy such security deficiencies. Third, while U.S. authorities may have sufficient existing authority to protect U.S. air travelers from security risks abroad, that authority is not always used in a timely fashion. Fourth, the place to stop hijacking is on the ground. More attention to preboard screening and to securing aircraft on the ground is needed. Armed security personnel aboard aircraft are, with rare exception, both ineffectual and dangerous to passengers. Fifth, more research and development is required on the production of reliable explosives—detection devices for screening both baggage and individuals.

With these issues in mind, the subcommittee prepared S. 1436, the "Air Traveler Protection Act of 1985". The bill attempts to address each of the concerns noted above. In addition, it responds to the administration's request for legislation. Last, it incorporates a variety of suggestions from other legislative proposals. Its objective is to provide a unified response to a common problem.

Legislative History

On June 21, 1985, Senators Kassebaum, Danforth, Hollings and Exon introduced S. 1343, the "Anti-Hijacking Act of 1985," at the request of the administration. On June 27, 1985, the Subcommittee on Aviation held 1 day of hearings on airport security. S. 1343, and two related bills, S. 1321 and S. 1326 (introduced by Senators Dixon and Moynihan, respectively), were discussed.

On July 16, 1985, Senator Kassebaum introduced S. 1436, the "Air Travelers Protection act of 1985". Joining her as cosponsors were Senators Danforth, Hollings, Ford, Riegle, Exon, Dixon and Lautenberg. The bill incorporated certain provisions from S. 1343 and S. 1321.

On July 18, 1985, the Committee unanimously ordered the text of S. 1436 reported as an amendment in the nature of a substitute to H.R. 2796, a House-passed airport security bill. The Committee concurrently reported the budget waiver required for the measure.

Summary of Major Provisions

The major provisions of H.R. 2796, as reported, are as follows:

First, the bill would require the Secretary to assess airport security at international airports and evaluate the extent to which

those airports effectively maintain and administer security measures;

Second, where security is determined to be lacking, the Secretary is required to notify the appropriate foreign government of that determination, recommend steps to remedy deficiencies, and offer technical assistance to help correct the problem;

Third, if within the 60-day period following the notification the foreign government in question fails to bring airport security up to standards, the Secretary is directed to advise the traveling public of the security risk, through the Federal Register, press releases, and appropriate signs in U.S. airports serving international destinations;

Fourth, where airport security at a foreign airport poses an immediate threat to U.S. travelers, the Secretary is *directed* to suspend immediately the authority of U.S. carriers to serve that airport, and to suspend the authority of that country's carriers to serve U.S. airports;

Fifth, the Secretary is required to study the need for an expanded air marshal program, and the FAA is authorized to deputize its employees as air marshals;

Last, the bill authorizes $10 million, without fiscal year limitation, from the Airport and Airway Trust Fund, for research and development of techniques and devices for detecting explosives and weapons aboard aircraft and in airports.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 23, 1985.

Hon. John C. Danforth,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1436, the Air Travelers Protection Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Rudolph G. Penner, *Director.*

Congressional Budget Office—Cost Estimate

1. Bill Number: S. 1436.
2. Bill Title: Air Travelers Protection Act of 1985.
3. Bill Status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, July 18, 1985.
4. Bill purpose: This bill requires the Secretary of Transportation to assess airport security at foreign airports used by U.S. carriers

or foreign carriers serving the United States. If it is determined that an airport is not maintaining effective security, the Secretary must notify authorities of the foreign government, and recommend steps to bring the airport into compliance. The Secretary is also given an option to provide technical assistance on airport security to foreign governments, including training foreign personnel in the United States. The Secretary is authorized to pay for travel and living expenses of the trainees, and may require the foreign government to reimbuse all or part of these expenses for technical assistance.

In cases where an airport does not meet security requirements, and foreign officials have failed to bring the airport compliance within 60 days after notification of the finding, the Secretary must publish the name of the airport in the Federal Register, notify the news media, and prominently display the name of the airport in all U.S. international airports. If a situation poses serious risks to the traveling public, however, the Secretary must immediately suspend service between the United States and that airport. The Secretary must notify Congress of any action taken under these provisions, as part of a semiannual report on mental-detecting devices at airports.

S. 1436 also authorizes the appropriation of $10 million from the Airport and Airway Trust Fund for research and development of airport and aircraft security devices and techniques for detecting explosives. In fiscal year 1985, $2.9 million was appropriated for this purpose from the Federal Aviation Administration's research, engineering and development program. (The appropriation for the entire program totaled $265 million in 1985.) The President requested $2.3 million in fiscal year 1986 for detecting explosives, and the Department has already decided to reprogram $4 million in fiscal year 1985 to increase the funds available for this purpose. The bill also requires the Secretary to study the need for an expanded air marshall program on U.S. carriers on international flights.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
Authorization level	10				
Estimated outlays	5	3	2		

In addition to the authorized amounts for research and development shown in the above table, the Department of Transportation may request an increase in funding to supplement its current security-related activities, as a result of this bill. Since S. 1436 does not specifically require the Department of Transportation to undertake new duties, and does not authorize an increase in funding for security purposes, any increase would depend on the Department's implementation plans and cannot be estimated on the basis of available information.

The costs of this bill fall within budget function 400.

Basis of estimate: For the purpose of this estimate, CBO assumes that $10 million authorized by the bill for research and development activities would be appropriated prior to the beginning of fiscal year 1986. Outlay estimates are based on historical spending rates.

a study on expanding the current air marshall program is already underway at the Department of Transportation, and the bill's requirement is not expected to result in any increased costs.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Kathleen Kelly.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

The bill requires the Department of Transportation (DOT) to take certain actions to protect the security of U.S. citizens in foreign air transportation. Specifically, the bill requires the Secretary to assess security effectiveness at foreign airports, work with foreign airport authorities to improve identified deficiencies, and to identify publicly those foreign airports which are security deficient. With the exception of the last requirement, these are all functions which DOT performs today. With regard to the last function, and in particular to the requirement that the Secretary prominently post in U.S. airports the identities of security deficient foreign airports, this will impose a small additional regulatory burden on the Secretary.

The bill also gives the Secretary clear authority to act immediately to suspend the operating authority of air carriers in an emergency, charges the Secretary with studying the need for an enhanced air marshal program, and authorizes additional monies for research and development of explosives-detection devices. Any new regulatory burden imposed on DOT by these provisions is negligible.

The bill imposes no new duties on any non-Federal U.S. company or individual. There should be no effect on the personal privacy of individuals due to enactment of the legislation. Although new assessment and reporting requirements would be imposed on the Secretary as a result of this legislation, in the Committee's view they are insubstantial. No significant new paperwork burdens would be placed on any other person if H.R. 2796 were enacted into law.

Section-by-Section Analysis

SECTION 1.—SHORT TITLE

The first section provides that this act may be cited as the "Air Travelers Protection Act of 1985".

SECTION 2.—SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

This section amends section 1115 of the Federal Aviation Act of 1958.

Assessment of security measures

Paragraph (1) of new section 1115(a) requires the Secretary to conduct periodic assessments of airport security measures at foreign airports served by U.S. carriers, at those foreign airports from which foreign air carriers serve the United States, and as such other foreign airports as the Secretary may deem appropriate.

The terms "air carrier", and "foreign air carrier", as used here and elsewhere in this bill, are defined terms for the purposes of the Federal Aviation Act of 1958.

The Committee is aware that foreign airports are not "inspected" in the same sense that U.S. domestic airports are inspected, and that inspection by FAA personnel is neither encouraged nor welcome in some countries. However, FAA security inspectors do, today, review the security procedures maintained by U.S. air carriers abroad, and do, today, through such inspections, and through other means of intelligence-gathering, obtain meaningful information on the adequacy of foreign airport security. The Committee assumes that such activities will continue and, in addition, expresses its hope that in the spirit of cooperation and to reduce acts of violence against air travelers everywhere, other countries will provide reasonable rights of access to U.S. security inspectors.

The Committee does not presume to suggest the regularity with which such assessments should be made, but does note that at large domestic airports the frequency of FAA security reviews is approximately three times annually. While three annual inspections may be entirely inadequate in the most volatile of political climates, it may be too many in other locations. It is hoped that in order to best assure the greatest measure of security for air travelers abroad, the Secretary will err on the side of frequent inspections, where possible.

Cooperation

Paragraph (2) of new section 1115(a) affirms the Committee's intent that the Secretary shall conduct such assessments in the fullest spirit of cooperation with foreign governments, their aviation authorities, and air carriers.

International standards

Paragraph (3) sets out the standard which the Secretary shall use in analyzing the security measures employed at any airport reviewed under this subsection. The standards are those contained in Annex 17 to the Convention on International Civil Aviation, as such standards are in effect on the date of assessment. The Committee refers here to "International Standards and Recommended Practices; Security; Safeguarding International Civil Aviation Against Acts of Unlawful Interference," as published periodically by the International Civil Aviation Organization.

Report to Congress

Paragraph (4) merely requires the Secretary to summarize the assessments made pursuant to subsection (a) in the semi-annual report to Congress required by section 315 of the Federal Aviation Act of 1958.

Notification of findings and provision of technical assistance

Subsection (b) of new section 1115 sets forth the Secretary's duties with regard to notification and assistance. Paragraph (1) provides that when the Secretary *determines* that a foreign airport does not maintain effective security measures, she shall notify the appropriate airport authorities and recommend the steps necessary to bring the security measures up to standards. The Committee, here and elsewhere in the bill, uses the term "determines" advisedly. In so doing it seeks to distinguish the relatively informal fact-finding process inherent in a "determination" from the more formal procedures required for a factual "finding." In making such determinations and notifications, it is the Committee's intent that the Secretary should err on the side of promptness, rather than delay.

Technical assistance

Paragraph (2) of new section 1115(b) provides the Secretary with discretionary authority to render technical assistance to foreign governments in bringing any airports under this subsection up to standard.

The Committee is aware that such assistance is routinely offered by the Secretary today, and that it is often accepted. The Committee is also aware that the Department of State is authorized to render similar assistance under other provisions of law. The purpose of this subsection is to provide the Secretary with express authority to render such assistance, and to authorize her to seek reimbursement for any, all, or none of the cost of rendering such assistance. This section does not provide for any specific authorization of appropriations. Since DOT has the technical ability and expertise to secure airports, it is appropriate that the Secretary should have this authority. It is assumed that the Secretary will coordinate her activities with the State Department as necessary.

Notice of ineffective security measures

Subparagraph (A) of new section 1115(c)(1) describes the mechanism by which the Secretary shall inform the public of ineffective security measures at a given foreign airport. Paragraph (1) provides that when the Secretary *determines* that an airport does not maintain effective security measures, she *shall,* if such security deficiencies are not corrected within 60 days, identify such airport in the Federal Register and to the news media, and shall post the identity of such airport at all U.S. airports from which air carriers provide foreign air transportation.

Authority to revoke certificates

Subparagraph (B) of new section 1115(c)(1) preserves the operative language of existing section 1115. It provides that if an air-

port's security deficiencies are not corrected within 60 days, the Secretary may, with the approval of the Secretary of State and after consulting with air carriers, and foreign aviation authorities, withhold, revoke or condition the operating authority of carriers to serve such security-deficient airport.

Effective date

Paragraph (2) of new section 1115(c) provides, in addition to the 60 day mechanism described above, that the Secretary's duty to identify security-deficient airports, and her discretionary authority to revoke or condition airline operating authority, becomes effective *immediately* if the Secretary determines that a condition exists which threatens the safety or security of passengers, aircraft, or crew traveling to or from such airport. Where an imminent danger or manifest risk is posed by a security condition, it is the Committee's intention that the public shall be advised immediately upon such a determination by the Secretary.

Cancellation of requirements

Paragraph (3) of new section 1115(c) sets out the criteria for the cancellation of the requirements of the subsection. The Secretary shall cancel the requirements of paragraph (1)(A) only if she determines that effective security measures are maintained at the identified airport. She shall notify the news media and the Congress of such cancellation.

Notice to Congress

Paragraph (4) of new section 1115(c) directs the Secretary promptly to report to the Congress any action taken under this subsection.

Section 1115(c)

In drafting paragraph (1)(A) of this subsection, the Subcommittee on Aviation was aware that at least one other bill on this subject, H.R. 2796, in its original text, provided for notice to passengers of an "unsecured" foreign airport on airline tickets to such destinations. The subcommittee rejected this approach for two reasons. First, and most importantly, it was thought that by providing the identity of an "unsecured" airport to the news media, the public would be apprised, at the first opportunity and even *before* purchasing an airline ticket, of the possible risks inherent in travel to such an airport. Second, the subcommittee feared that such notices would go unnoticed.

The Committee is aware of the administation's concern that the changes in section 1115, and particularly those in subsection (c), may deprive the secretary of some discretion in working to improve security with foreign governments and foreign aviation authorities at security-deficient airports. While it is true that the duty of the Secretary to identify security-deficient foreign airports to the public 60 days after determining their condition *does* limit the amount of time which may elaspe prior to advising the public of a security risk, this is precisely the Committee's intent. The Committee's language still provides the Secretary with considerable flexibility in working with foreign governments and aviation authori-

ties to remedy known problems. Moreover, it also ensures that at a fixed point in time, where cooperation and negotiation have failed to correct airport security deficiencies, the public will be so advised and allowed to make informed, personal decisions regarding whether to travel to a foreign destination which poses known risks. Such a measure is warranted, in the Committee's view, to prevent the recurrence of events such as the hijacking of TWA Flight 847 from Athens, an airport known by DOT to be security deficient for at least three years prior to the June 1985 hijacking.

Last, as to the requirement that the Secretary shall identify foreign airport security risks and "cause the identity of such airport to be posted and prominently displayed at all United States airports from which air carriers provide foreign air transportation," (new section 1115(c)(1)(A), the Committee intends such notice to be provided only at those U.S. airports which actually provide air carrier service, either scheduled or charter, to foreign destinations. Thus, the mere fact that a airport is designated an "international airport," does not, in itself, require posting the notice required by this subsection at such airport.

Immediate suspension of services

New section 1115(d) is a provision proposed almost identical to that proposed by the administration. It provides DOT with clear authority to act immediately, without notice or hearing, to counter terrorist acts. The provision directs the Secretary, with the approval of the Secretary of State, to suspend all air service between the United States and a security deficient airport, where a condition exists that threatens the safety of those traveling through that airport. The section expressly requires such action, with a minimum of procedural prerequisites, and notwithstanding the provisions of other applicable law (sections 1102 and 114 of the Federal Aviation Act of 1958), which could otherwise require the Secretary to exercise her powers consistent with any treaty obligation of the United States, or to take into consideration applicable laws of foreign countries in the exercise of such powers and duties.

Conditions of authority

New subsection (e) states that the provisions set forth in section 1115 shall be a condition to any operating authority granted to any air carrier or foreign air carrier by the FAA Administrator under title VI of the act, or by the Secretary under title of the act. This ensures that carriers operating to or from the United States are bound by the requirements of this section in providing foreign air transportation.

Amendment to section 315

Section 2(b) sets out an amendment to section 315(a) of the Federal Aviation Act of 1958, requiring the Secretary to include in the semiannual reports provided for in that section, summaries of her assessments of foreign airport security, as provided in new section 1115(a).

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Section 2(c) amends the table of contents to the Federal Aviation Act to reflect the changes made by the above revisions to section 1115.

Air Marshal Program

Section 3(a) requires the Secretary to study the need for an expanded air marshal program on international flights by U.S. carriers, and requires the Secretary to report her findings with appropriate recommendations to the Congress within 6 months.

At the Aviation Subcommittee's June 27, 1985 hearing on airport security and terrorism, a number of witnesses addressed the issues raised by placing armed persons aboard passenger-carrying aircraft. Most opposed the use of such armed persons, except in the most unusual and limited circumstances. The opposition, voiced by air carriers, pilots, flight attendants, and former air marshals, was based on two arguments. First, it was noted that the air marshal program has, in the past, been ineffective. Airborne U.S. air marshals have never prevented a hijacking and never made an arrest. In one instance in 1971, three air marshals, and an FBI agent allowed themselves to be hijacked to Cuba because effective intervention without the risk of passenger injury was impossible. Second, witnesses testified that armed marshals aboard aircraft may pose a greater threat to passenger safety than that which they are intended to relieve. It was pointed out that it was difficult to hypothesize a situation in which firearms could be used without endangering passengers, but that it was relatively simple to formulate scenarios in which an air marshal's "friendly" gun could be turned against himself and others.

For these reasons the Committee's bill does not mandate the deployment of air marshals in any location, nor require their use on any flight. It is for the same reasons that the legislation provides for a study of the utility of "air marshals" (security personnel deployed on the ground, except in the most unusual of circumstances) rather than "sky marshals" (security personnel stationed aboard aircraft).

Deputized FAA personnel

Section 3(b), requested by the administration, authorizes the FAA Administrator to deputize FAA personnel to act as air marshals, to procure firearms, to authorize FAA personnel to use firearms in their duties, and to make arrests. Today only the U.S. Marshal can deputize FAA personnel. It should be noted that this authority is virtually identical to that exercised today by the U.S. Marshal in deputizing employees of DOT to act as air marshals.

Research on airport and aircraft security devices

Section 4 of the bill authorizes $10 million, without limitation as to fiscal year, from the Airport and Airway Trust Fund, for the purpose of research on and development of airport and aircraft security devices and techniques for detecting explosives. The $10 million is expressly provided in addition to amounts otherwise avail-

able in the FAA's research and development budget for such purposes.

The Trust Fund is designated as the source of such funds for two reasons. First, FAA spending or research and development is already wholly financed with Trust Fund dollars. Second, insofar as airline ticket taxes are one of the Fund's principal sources of revenue, it is appropriate to return some of those monies to those who provide them, the passengers, whose security will be better protected because of the expenditure.

Last, it is the Committee's intention that such funds are to be spent exclusively for purposes of research on and development of airport and airway security devices and techniques for detecting explosives. This identification of purpose is to ensure that these monies are spent on technologies and techniques, and not, for instance, on salaries.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by th bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The Federal Aviation Act of 1958

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SECTION 315 OF THAT ACT

SCREENING OF PASSENGERS

PROCEDURES AND FACILITIES

SEC. 315. (a) The Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air trasportation or intrastate air transportation be screened by weapon-detecting procedures or facilities employed or operated by employees or agents of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. One year after the date of enactment of this section or after the effective date of such regulations, whichever is later the Administrator may alter or amend such regulations, requiring a continuation of such screening only to the extent deemed necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of screening procedures under this subsection and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least 30 days in advance of their effective date, unless he determines that an emergency exists which requires that such regulations or amendments take effect in less than 30 days and notifies the Congress of his determination. *Each such semiannual report shall include the information specified in section 115(a) of this Act.*

(b) * * *

AIR TRANSPORTATION SECURITY

SEC. 316. (a)-(d) * * *

OVERALL FEDERAL RESPONSIBILITY

(e)(1)-(3) * * *

(4) The Administrator, after consultation with the Attorney General and the Secretary of State, may procure firearms for use by persons in connection with the performance of their air transportation security duties, and may authorize such persons to carry such firearms. The Administrator may authorize such persons to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States, if they have reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

SECTION 1115 OF THAT ACT

SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

SEC. 1115. (a) Not later than 30 days after the date of enactment of this section, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, of the provisions of subsection (b) of this section.

[(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation.]

SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

ASSESSMENT OF SECURITY MEASURES

SEC. 1115. (a)(1) The Secretary of Transportation shall conduct at such intervals as the Secretary shall consider necessary an assessment of the effectiveness of the security measures maintained at those foreign airports being served by air carriers, those foreign airports from which foreign air carriers serve the United States, and at such other foreign airports as the Secretary may consider appropriate.

(2) Each such assessment shall be made by the Secretary in consultation with the appropriate aeronautic authorities of the concerned foreign government and each air carrier serving the foreign airport at which the Secretary is conducting such assessment.

(3) The assessment shall determine the extent to which an airport maintains and administers effective security measures. In making an assessment of any airport under this subsection, the Secretary shall use a standard which will result in an analysis of the security measures at such airport based upon, at a minimum, the standards contained in Annex 17 to the Convention on International Civil Aviation, as such standards are in effect on the date of such assessment.

(4) Each report required by section 315 of this Act shall contain a summary of the assessments conducted pursuant to this subsection.

NOTIFICATION OF FINDINGS; PROVISION OF TECHNICAL ASSISTANCE

(b)(1) Whenever, after an assessment in accordance with subsection (a) of this section, the Secretary of Transportation determines that a foreign airport does not maintain and administer effective security measures, the Secretary shall notify the appropriate authorities of such foreign government of such determination, and recommend the steps necessary to bring the security measures in use at that airport up to the standard used by the Secretary in making such assessment.

(2) The Secretary may, in order to assist a foreign government to take any such steps, provide technical assistance concerning avaiation security to that foreign government. Such technical assistance may include the conduct of surveys to analyze the level of aviation security at such airport and the provision of training in aviation security to nationals of that foreign government. Such training in avaiation security may be conducted either in the United States or in the involved foreign nation. The Secretary may provide for the payment of subsistence and expenses for travel within the United States for any foreign national receiving such aviation security training in the United States. The Secretary may require any such foreign government to reimburse the United States for all, part, or none of the cost of providing the technical assistance authorized under this paragraph.

NOTICE OF INEFFECTIVE SECURITY MEASURES

(c)(1) Subject to paragraph (2) of this subsection, if the Secretary of Transportation determines pursuant to subsection (a) of this section that an airport does not maintain and administer effective security measures, the Secretary—

(A) shall publish in the Federal Register the identity of such airport, shall notify the news media of the identity of such airport, and shall cause the identity of such airport to be posted and prominently displayed at all United States airports from which air carriers provide foreign air transportation; and

(B) may, after consultation with the appropriate aeronautical authorities of such foreign government and each air carrier serving such airport and with the approval of the Secretary of State, notwithstanding section 1102 of this Act withhold, revoke, or impose conditions on the operating authority of any air carrier or foreign air carrier to engage in foreign air transportation utilizing such airport.

(2) Paragraph (1) of this subsection shall become effective 60 days after the notification required in subsection (b)(1) of this section, if the Secretary determines that the relevant foreign government has failed to bring the security measures at the identified airport up to the standard used by the Secretary in making an assessment of such airport under subsection (a) of this section, except that paragraph (1) of this subsection shall become effective immediately upon such determination if the Secretary determines that a condition exists that

threatens the safety or security of passengers, aircraft, or crew traveling to or from such airport.

(3) The Secretary may cancel the requirements of paragraph (1)(A) of this subection only if the Secretary determines that effective security measures are maintained and administered at the identified airport. If the Secretary cancels such requirements, the Secretary shall notify the news media and the Congress of such cancellation.

(4) The Secretary shall promptly report to the Congress any action taken under this subsection, including information concerning the attempts made to secure the cooperation of the relevant foreign government in meeting the standard used by the Secretary in making the assessment of such airport under subsection (a) of this section.

IMMEDIATE SUSPENSION OF SERVICES

(d) Notwithstanding the provisions of this section and sections 1102 and 1114 of this Act, whenever the Secretary of Transportation determines that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport, and

(2) the public interest requires an immediate suspension of services between the United States and such airport, the Secretary shall, without notice or hearing and with the approval of the Secretary of State, suspend the right of any air carrier or foreign air carrier to engage in foreign air transportation to or from such airport and the right of any persons to operate aircraft in foreign air commerce to or from such airport.

CONDITIONS OF AUTHORITY

(e) The provisions of this section shall be deemed to be a condition to any authority issued to any air carrier or any foreign air carrier by the Administrator under title IV of this Act or by the Secretary of Transportation under title VI of this Act.

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